

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Implementation of the Subscriber Carrier)	
Selection Changes Provisions of the)	CC Docket No. 94-129
Telecommunications Act of 1996)	
)	
Policies and Rules Concerning)	
Unauthorized Changes of Consumers')	
Long Distance Carriers)	

COMMENTS OF QWEST

Summary of Position

Qwest Communications International Inc. submits these comments pursuant to the Federal Communications Commission's ("Commission") *Second Further Notice of Proposed Rulemaking* ("*Second Further Notice*"),¹ where the Commission asks whether further content requirements are necessary with respect to the communication that occurs between an end user subscriber and a Third Party Verifier acting on behalf of a carrier who has secured that end user as its own subscriber.² The answer is "no."

Beyond those Third Party Verification ("TPV") content requirements already established as minimum requirements, the Commission should not burden the communication between the verifier and the subscriber with any additional content requirements. Since the existing TPV content rules essentially "do not differ in substance from the rules regarding [Letters of Agency]

¹ *In the Matter of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94-129, *Second Further Notice of Proposed Rulemaking*, FCC 03-42, rel. Mar. 17, 2003.

² *Id.* ¶¶ 109-112.

LOAs,”³ they pose minimal monetary or communicative burdens on carriers to TPV agents. On the other hand, the proposed additional mandated content would go beyond that already embedded in carriers’ verification processes, creating additional costs. Those costs, like all carrier costs, will ultimately be recovered from consumers.

Neither the need for the additional rules, nor the benefits to be realized from them, is demonstrated in the *Second Further Notice* itself. Indeed, the proposed additional communications are suggested as means to remedy what the Commission references as “situations”⁴ (quite possibly isolated) or “instances.”⁵ Additionally, the Commission mentions its own observations where it believes additional discussion may have been helpful with respect to specific consumers.⁶ While it may be appropriate in a particular case, because of complaints filed with the Commission for example, for the Commission to suggest to a carrier that its processes could be improved by changing or adding to its TPV processes, a rule of general application is unnecessary where the problem to be remedied is not widespread or inherently harmful.

Nor should the Commission establish additional TPV content requirements where the proposed mandated content is already required to be provided by the carrier. It is duplicative to compel certain subjects to be addressed at both the marketing and verification contact points. Such duplication is potentially confusing for consumers and likely to seriously erode efficiencies otherwise associated with existing TPV processes.

³ *Id.* ¶ 109.

⁴ *Id.* ¶ 111.

⁵ *Id.* ¶ 113.

⁶ *Id.* ¶¶ 112-113.

The Commission's Specific Proposals

The Commission inquires about adding the following content to the communication between a third party verifier and the end user: the date of the verification captured on the tape; a statement that if a customer has additional questions about service that arise during the process, the TPV will be terminated; a statement that the customer's request for carrier change will be effectuated without any further action on behalf of the customer once the TPV is terminated; a statement to the customer that "he or she is not verifying an intention to retain existing service, but is in fact asking for a carrier change,"⁷ a statement about the scope of interLATA service and, possibly, a definition of the terms intraLATA and interLATA.

Some of these content elements are likely to already be included in some carriers' TPV scripts.⁸ Adding them, then, would not materially affect the existing process for those particular carriers or their costs. But while some of the Commission's proposed disclosure elements may be included in some carriers' carrier change processes, it is far from clear that each of these elements is "critical" to the general reliability of the *verification* process between the TPV vendor and the subscriber.

Indeed, certain of the proposed content elements are clearly *not critical* to the TPV process, because the element addresses content that carriers are already required to provide to potential subscribers. For example, the Commission has already relegated to carriers the

⁷ *Id.*

⁸For example, Qwest's TPV vendors state and record the date during the verification process, advise when the service change will occur, and advise that interLATA service includes both international and state-to-state calls. Qwest would surmise that even if carriers do not formally ask and record the date of the communication as part of the discussion with the subscriber, there is some kind of date stamping associated with the communication to facilitate tracking and retrieval of the TPV communication at a later date.

obligation to address with subscribers what is meant by the terms intraLATA versus interLATA.⁹ With respect to marketing telecommunications services, carriers must “identify specifically the types of service or services being offered,”¹⁰ assure “that each service be identified and delineated clearly to the subscriber,”¹¹ “explain to the subscriber the difference between the two services,”¹² and secure separate authorizations for each service.¹³ Additionally, the “subscriber’s authorizations to change intraLATA toll and interLATA carriers must also be verified separately.”¹⁴ The Commission has *already* concluded that this process prevents carriers “from taking advantage of consumer confusion and changing the preferred carriers for all of a subscriber’s telecommunications services where the subscriber merely intended to change one.”¹⁵ This conclusion belies the need for additional definition or discussion regarding this matter from the TPV provider.

⁹While the Commission discusses adding a content requirement to the TPV process that would involve the definitions of intraLATA and interLATA, the manner in which this issue is addressed suggests the problem is not with *where* the communication takes place -- the carrier or the TPV provider -- but with *what* is said. The Commission seems particularly concerned that “carriers sometimes use differing terms for these services; for example, a carrier might refer to intraLATA service as ‘short haul long distance, local toll, local long distance service, or long distance calls within your state.’” *Second Further Notice* ¶ 113. Qwest notes that this “issue” of different language used to describe these services has been before the Commission since prior to the promulgation of the existing rules, wherein the Commission relegated to *carriers* the obligation to explain the services, not the TPV provider.

¹⁰ *In the Matter of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers, Second Report and Order and Further Notice of Proposed Rulemaking*, 14 FCC Rcd. 1508, 1558-59 ¶ 82 (“*Second Report and Order*”). And see 47 C.F.R. § 64.1120(b).

¹¹ *Second Report and Order*, 14 FCC Rcd. at 1558-59 ¶ 82.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

Mandating that a TPV provider define certain terms in addition to the carrier adds unnecessary and unwarranted costs to the TPV process. Additionally, to the extent that a TPV vendor is substantively ill equipped to do more than read from a prepared script regarding what is meant by intra- and inter-LATA service, and is unable to meaningfully discuss the differences between the two services with the subscriber, the carrier is put in the position of possibly being required to endure multiple economic hits with respect to the carrier change process. The carrier first has to underwrite the direct expense of having its sales representative describe and define the services. Then it must require the TPV vendor to do so as well and pay for that. Then -- if the subscriber becomes confused -- the carrier must have the conversation again between its sales representative and the subscriber.

This kind of “bounce back” of a customer is very costly. And it is all the more disruptive to carriers, such as Qwest, that are trying to increase usage of automated TPV systems and processes. Every element that is added to the TPV discussion that is potentially confusing and that is not clear and simple creates risk that the hoped-for efficiencies of the automated processes will not be realized. Requiring the TPV vendor to discuss substantive telecommunications terms is just such an added risk element.

Moreover, from a practical perspective, it is not optimal for definition of telecommunications services terms, such as intra- or inter-LATA -- to take place at a TPV level. If a customer desires to know more about these service terms, the most reasonable resolution for the TPV vendor would be to terminate the TPV session and return the customer to the carrier for definition. The Commission’s current rules reflect this approach and should not be modified.

The Commission’s current rules lodge the responsibility for defining terms of service with the carrier -- the correct place. This approach correctly relegates to the carrier the

obligation to market and define the service it is selling. Concomitantly, the rules limit the *verification* process to exactly that. There is no demonstrated need to change this approach and the Commission should not do so.

Because there is no existing record evidence supporting any material benefit to consumers from amending the Commission's minimum TPV content standards, and there will clearly be costs associated with such amendments, the Commission should not proceed with any further prescriptions with respect to the content of the TPV communication.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused 1) the foregoing **COMMENTS OF QWEST** to be 1) filed electronically with the FCC by using its Electronic Comment Filing System, and 2) served via e-mail on the parties listed below.

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